

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

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U.S. DISTRICT COURT  
DISTRICT OF MARYLAND  
DEC 2 9 49 AM '99

JAMES DAVID PROCTOR :

v. :

CIVIL NO. L-95-3834

EUGENE M. NUTH, ET AL. :

FILED ENTERED  
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CLERK U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

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ORDER

On September 30, 1999, this Court granted in part and denied in part the Petition for a Writ of Habeas Corpus filed by James D. Proctor. For the reasons set forth in the Court's Memorandum and Order of September 30, 1999, the Court hereby ORDERS that:

- (i) this Order shall constitute a Writ of the Court;
- (ii) on or before April 29, 2000, the Respondents shall release the Petitioner from custody, unless he is re-tried before that date;
- (iii) if the State does not re-try the Petitioner before April 29, 2000, the State shall release the Petitioner, but the State may re-try him thereafter, unless a retrial would violate the Petitioner's speedy trial rights, a matter on which the Court expresses no opinion at this time; and
- (iv) because this Court finds that the prosecutor's knowledge as to the truth of the mercury bullet theory is debatable among reasonable jurists, the Court GRANTS the Petitioner's Motion for a Certificate of Appealability with

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regards to this issue.

IT IS SO ORDERED this <sup>29<sup>th</sup></sup> day of November, 1999.

A handwritten signature in cursive script, appearing to read "Benson Legg", written over a horizontal line.

Benson Everett Legg  
United States District Judge